

ARTICLE APPEARED
ON PAGE **A-20**

NEW YORK TIMES
14 August 1985

WASHINGTON TALK

Justice Department

Merits of Pushing for Spying Trials

By **STEPHEN ENGELBERG**

Special to The New York Times

WASHINGTON, Aug. 13 — On the Monday morning that Arthur J. Walker went to trial on charges of espionage, his defense lawyers made an offer they thought would be irresistible.

Their client, facing a seven-count indictment, would plead guilty to a conspiracy count that carries a maximum sentence of life in prison and no contest to the remaining charges.

Mr. Walker was also prepared to testify for the Government, if asked, at the coming trials of others accused in the case, including his younger brother and nephew, who have pleaded not guilty.

But top Justice Department officials refused to accept anything less than a guilty plea to all counts, underscoring a tough policy on prosecuting espionage cases that began in the Carter Administration.

Lawyers Were Stunned

Defense lawyers were stunned. "I've never had a situation where I couldn't plead my client guilty to the maximum count," said Samuel W. Meekins Jr., one of Mr. Walker's two attorneys.

Mr. Walker, found guilty on all counts last week by a Federal district judge in Norfolk, Va., is awaiting sentencing. He faces a maximum prison sentence of three life terms plus 40 years, and a maximum fine of \$40,000.

Until recently, charges of spying were often settled before trial; defendants were allowed to plead guilty to lesser offenses or escape prosecution entirely in exchange for their help in assessing the damage caused.

Espionage cases almost invariably involve the disclosure of sensitive information in open court, said Griffin Bell, President Carter's Attorney General. Additionally, pursuing the cases were embarrassing to an agency victimized by a spy, he said in noting the Government's previous tendency to skirt prosecution.

Decision to Proceed

Under Mr. Carter, however, prosecutors began pressing espionage cases. The Department of Justice won several convictions, including a case that involved a former Central Intelligence Agency employee who sold the Soviet Union a technical manual for top-secret spy satellites.

The Reagan Administration has taken this policy even further. Its stance on plea bargaining, officials

said, reflects a determination to use the publicity from celebrated espionage trials as a means of deterring people from becoming spies.

The decision not to accept a deal with Mr. Walker was made by D. Lowell Jensen, the Deputy Attorney General, and Stephen S. Trott, head of the criminal division.

Mr. Meekins, Mr. Walker's attorney, criticized the decision. "I don't see what it accomplished other than it was an opportunity for some chest pounding by the Government," he said. "It was distasteful."

Mr. Jensen said in an interview that in the Government's view, there was a value to pressing ahead with a trial.

"These are not crimes of passion," he said. "These are peculiarly crimes where people are making choices, where you would weigh the cost and benefit of doing it. We want to see to it that the costs of doing it are as high as possible."

He said that the question of bargaining with Mr. Walker was extensively discussed and that the department would continue to decide case by case whether to bargain espionage pleas. "It depends on whether we feel we need to trade," he said. "I'm not saying there are not cases where pleas are completely appropriate. We've done it before and I'm sure we'll do it again."

Mr. Walker's other attorney, J. Brian Donnelly, said the Government's decision to go through with a trial was influenced by the political climate and the spirit of muscular patriotism that appears to have gripped the country.

"It was the summer of 'Rambo,'" said Mr. Donnelly, referring to the popular movie in which the leading character kills scores of Communists. "The cards were stacked against him."

The intense negotiations on a plea in the case began Aug. 1, the Thursday before the trial was to open. The defense attorneys said the Federal prosecutors initially appeared amenable to discussing a guilty plea to one count of conspiracy to commit espionage.

The lawyers were so convinced they would get a deal that they had their client brought to the Federal courthouse in Norfolk the next day so he would be ready to initial the papers.

The call never came.

On Monday morning, the defense raised the offer to include the pleas of no contest to the six other counts. The opening of the trial was delayed as Elsie L. Munsell, the United States Attorney in Norfolk, hurried to a back room to call Justice Department officials in Washington.

A few minutes later, Miss Munsell delivered her answer: no deal.

One of the first people to feel the effects of that decision was Brian P. Gettings, the lawyer for a C.I.A. clerk accused of passing classified information to her Ghanaian lover. An 18-count indictment says the clerk, Sharon M. Scranage, committed espionage, disclosed the identity of secret agents and disclosed classified information.

The department at first seemed willing to discuss a plea, Mr. Gettings said. But at a meeting with prosecutors that took place hours after Mr. Walker's final plea offer was rejected, Mr. Gettings said the climate suddenly changed.

Miss Scranage was discussing a plea to some of the lesser counts, which do not carry life sentences, Justice Department officials say. This week, she pleaded guilty to two charges of identifying an agent and not guilty to the remaining 16 counts. She has not been tried.

"There were very meaningful plea negotiations early on," said Mr. Gettings, who would not disclose details. "They were abruptly, and I do mean abruptly, terminated by the Government."